

Sumter City-City Zoning Board of Appeals

September 8, 2010

BOA-10-24, Springhollow Apts.; 1010-1050 Tupelo Ln. (City)

I. THE REQUEST

Applicant:	Springhollow LP
Status of the Applicant:	Property Owner
Request:	Request for 5" variance to the required 15' side setback for 5 apartment buildings
Location:	1010-1050 Tupelo Lane
Size of Property:	5.21 acres (3.77 acres delineated on plan).
Present Use:	Apartment building development under construction
Zoning:	Planned Development (PD), Highway Corridor Protection District (HCPD)
Proposed Use:	New Apartments
Tax Map Reference:	229-03-01-007

II. BACKGROUND

The applicant is requesting a variance to the side setback in order to construct an additional building to the existing Springhollow Apts. site located off of 245 N Pike West on Tupelo Lane. The parcel is zoned Planned Development (PD) and must be developed in accordance with the site development standards in that zoning district and under Article 8 of the Zoning Ordinance. In the Planned Development (PD) District, the side setback is stated to be 15 feet. The property also lies within the Highway Corridor Protection District (HCPD) for N Pike West in the City, which has additional requirements for site development, including architectural compatibility and attendant landscaping.

The project is under construction, and all of the buildings are in various stages of completion. It was discovered during a routine site inspection that the buildings on the northwest side of the property encroach over the setback line by less than 1 foot.

The neighboring property along the west side, for which the variance is requested, is also an apartment/townhome development. There are a few trees and shrubs planted on that neighboring property, and a fenced stormwater detention pond along its Pike West frontage that directly abuts the shared property line. The parcel abuts John Street to the north and several residential properties along the east, that are zoned General Residential (GR).



There are eight (8) new apartment buildings located on the site plan, each comprising approximately 5,870 square feet (two floors of 2,935 sf each). In addition, there is a large retention pond along the eastern portion, with a landscaped, centrally-located parking lot including handicapped van accessible spaces. The approved landscaping plan shows attendant trees, plantings, and bufferyards along all property lines and around the stormwater detention pond. Existing trees have been incorporated into this plan and will be preserved along the eastern border of the property.

Site grading has progressed and includes a drainage swale on the side of the property for which the variance has been requested. There is a chain link construction fence installed on that property line that will be removed when the site is completed. Any landscaping installed in that location will need to be placed in such a way that the drainage plans for the site are not negatively impacted.



Traffic from Tupelo Lane will access N Pike West (S 43-1428) with a 2009 AADT of 3500 vpd. The project will cause an increase in traffic. The variance if granted should have no impact over the projected traffic volume.

Based on the submitted site plan, the approved landscaping plan, and two site visits made by individual staff who have been working with the builder and landscaping contractors, the completed project will be compatible with the existing development in the immediate area.

In order for the Board of Appeals to grant a variance from the Ordinance requirements, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-City Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

IV. FOUR-PART TEST

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

The site is under construction and is adjacent to another apartment complex. These are the only two apartment developments in the vicinity and they are under the same ownership. All other properties are either vacant or have single-family residences on them.

A drainage swale has been constructed along the property line for which the setback variance has been granted and the landscaping along that line will have to be installed in such a way as to not encroach or interfere with the drainage plans for the site.

2. *These conditions do not generally apply to other property in the vicinity.*

There are no other projects under construction in the vicinity, and all but one are existing, established single-family residential.

3. *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

The site is in the process of being developed and the error was not discovered until after the buildings were under construction. If the variance is not granted, the buildings would have to be moved to be in compliance with the required 15' side setback.

4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.*

The authorization of this variance will not be of any detriment to adjacent property or to the public good if there are additional plantings that are installed on the side of the property for which the variance is requested that will protect and enhance the neighboring property.

The site will be developed in accordance with all other Ordinance requirements, and several existing trees have been preserved and incorporated into the landscaping plan.

The request for a variance was advertised and adjacent property owners were notified of the request. No property owners or others submitted negative comments or statements to the Planning Department in reference to the request.

V. STAFF RECOMMENDATION

Upon finding that the request meets all parts of the required four-part test, Staff recommends approval of BOA-10-24 with additional plantings incorporated into the landscaping plan along the property line adjacent to the Hickory Hollow Apartments (see attached).

Plant tea olives in clusters of (3) 6 feet on center across side buffer as shown in diagram (light green circles)

Space the clusters between the Live oaks

Plant 6 (Itea Virginica “Henry’s Garnet”) Virginia Sweetspire along in front of each cluster of tea olives (shown as darker green circles on diagram)

VI. DRAFT MOTIONS for BOA-10-24

- A. I move that the Sumter Board of Appeals approve BOA-10-24 with the condition that the landscaping plan shall be amended in accordance with the recommendation made by Staff, and subject to the findings of fact and conclusions contained in draft order, dated September 8, 2010 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-10-24 on the following findings of fact and conclusions:
- C. I move that the Sumter Board of Appeals enter an alternative motion for BOA-10-24.

V. ZONING BOARD OF APPEALS – SEPTEMBER 8, 2010

The Sumter City-County Board of Appeals at its meeting on Wednesday, September 8, 2010, voted to approve BOA-10-24 with the condition that the landscaping plan shall be amended in accordance with the following recommendations made by Staff:

- Plant tea olives in clusters of (3) 6 feet on center across side buffer as shown in diagram (light green circles)
- Space the clusters between the Live oaks
- Plant 6 (Itea Virginica “Henry’s Garnet”) Virginia Sweetspire along in front of each cluster of tea olives

and subject to the findings of fact and conclusions contained in draft order, dated September 8, 2010.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-10-24, 1010-1050 Tupelo Ln. (City)
September 8, 2010

Date Filed: September 8, 2010

Permit Case No. BOA-10-24

The Sumter Board of Appeals held a public hearing on Wednesday, September 8, 2010 to consider the appeal of Springhollow, LP for a variance from the strict application of the City Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The site is under construction and is adjacent to another apartment complex. These are the only two apartment developments in the vicinity and they are under the same ownership. All other properties are either vacant or have single-family residences on them.

A drainage swale has been constructed along the property line for which the setback variance has been granted and the landscaping along that line will have to be installed in such a way as to not encroach or interfere with the drainage plans for the site.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

There are no other projects under construction in the vicinity, and all but one are existing, established single-family residential.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:

The site is in the process of being developed and the error was not discovered until after the buildings were under construction. If the variance is not granted, the buildings would have to be moved to be in compliance with the required 15' side setback.

4. The Board concludes that authorization of the variance ☐ **will** - ☒ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district ☐ **will** - ☒ **will not** be harmed by the granting of the variance based on the following findings of fact:

The authorization of this variance will not be of any detriment to adjacent property or to the public good if there are additional plantings that are installed on the side of the property for which the variance is requested that will protect and enhance the neighboring property.

The site will be developed in accordance with all other Ordinance requirements, and several existing trees have been preserved and incorporated into the landscaping plan.

The request for a variance was advertised and adjacent property owners were notified of the request. No property owners or others submitted negative comments or statements to the Planning Department in reference to the request.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ **DENIED** – ☒ **GRANTED**,
subject to the following conditions:

Approved by the Board by majority vote.

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.